



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON

JUL 22 1931

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The Honorable,

The Secretary of the Interior.

Sir:

There has been received your submission of April 23, 1931, supplemented by additional information forwarded in letter of July 9, 1931, requesting decision whether under the act of May 14, 1930, 46 Stat. 319, making appropriation for the construction of roads and trails in national parks, and under contract I-1p-224, dated March 28, 1917, you are authorized to pay the expenses of removing a power plant line of the Glacier Park Hotel Company which interferes with the road program in the Glacier National Park.

The act of May 14, 1930, made appropriations for the construction, reconstruction and improvement of roads and trails, including the roads from Glacier Park Station through the Blackfoot Indian Reservation to various points on the boundary line of the Glacier National Park and the international boundary. The contract of March 28, 1917, between the United States, represented by the then Secretary of the Interior and the Glacier Park Hotel Company provided for the letting to said company of certain concessions in the Glacier National Park, with a stipulation in Article 1, sub-paragraph (b) that:

" * * * the right is hereby reserved to the Secretary of the Interior to enter upon and construct, maintain and operate roads, trails, paths and bridges over any and all of the pieces and parcels of land herein described, but not so as to destroy or interfere with the structures, buildings, and appurtenances theretofore constructed by the party of the second part thereon;"

The contract in said article, sub-paragraph (d), authorized the company to lay water supply, drain, and sewer pipes "and to erect and lay wires for the transmission of electric current to and from its hotels, inns, chalets and camps and buildings and structures operated in connection therewith," and it now seems from your submission that some of the wires for the transmission of electrical energy to the structures maintained by the company in the Glacier National Park as a part of the concession, interfere with the road program and that a part, at least, of the power line now on Government land should be removed and relocated on Government land.

The Park Engineer states in letter dated June 23, 1931, that the cost of the relocation of the line as proposed by the hotel company was estimated to aggregate \$1,385, while the landscape division of the Park Service had recommended that a part of the line be placed under ground at an estimated cost of \$2,200. The Park Engineer stated, also, in letter of July 3, 1931, that the road construction in question did not interfere physically with the power line, but that the line was very unsightly and the landscape division had requested that it be placed under ground. It is further stated that the telephone line was shown on the drawing forwarded by the Park Engineer followed very closely the new location of the highway and had to be removed in or-

der to build the road. There is thus a conflict in the statement contained in the letter of April 28, 1931, that it was necessary to remove the power line in order to construct the road, and the statement contained in the letter of July 3, 1931, from the Park Engineer that the road construction did not interfere physically with the power line. Also, the Park Engineer has brought up the question of the telephone line which was not covered in the submission.

Appropriations may not be used except for purposes for which appropriated. Section 3678, Revised Statutes. The usual rule is that where rights of way are granted to use public streets or other public property the United States is not to be charged with the expense of removal of the structures in event the location of such structures should interfere subsequently with the public use.

Answering your question specifically, you are advised that if the question of removal of the power lines and placing them under ground may not be settled by requiring the hotel company to remove them when they interfere with the public use, public funds for the construction of roads and trails may not be used for that purpose unless and until specific authorization therefor is contained in the appropriation or otherwise in the law. If there be any separate claim in connection with the removal of telephone lines which interfered with the part of the construction of the roads and trails, it may be

A-3664

- 4 -

submitted to this office for direct settlement, accompanied with full administrative report of the facts and recommendations in the matter.

Respectfully,

W. S. ...

Comptroller General
of the United States.